

U. S. DISTRICT COURT
N. D. OF N. Y.
FILED

JUL 7 2005

AT O'CLOCK M
LAWRENCE K. BAERMAN, Clerk
UTICA

9:05-CV-0500

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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JARRETT BANYAN,  
Plaintiff,

vs.

SUNY UPSTATE UNIVERSITY HOSPITAL; and  
JOHN HALVERSON, M.D.,

Defendants.

~~~~~  
APPEARANCES

JARRETT BANYAN
Plaintiff, *pro se*
03-A-2859
Midstate Correctional Facility
P.O. Box 2500
Marcy, New York 13403

DAVID N. HURD
United States District Judge

ORDER

Presently before the Court for review is an amended complaint filed by plaintiff Jarrett Banyan ("plaintiff"). Dkt. No. 4. The amended complaint was submitted by plaintiff in compliance with the Order of this Court filed on May 2, 2005. Dkt. No. 3 ("May Order"). The May Order also directed plaintiff to either pay in full the \$250.00 filing fee required for this action or file an inmate authorization form. *Id.* Plaintiff has submitted an inmate authorization form. Dkt. No. 5.

I. Amended complaint.

In his amended complaint, plaintiff alleges that the late Dr. Halverson was deliberately indifferent to plaintiff's serious medical needs. Dkt. No. 5 at 6-7. Plaintiff also

alleges that defendant Eastwood, as supervisor, was aware of past inmate complaints against Dr. Halverson, but failed to act upon the complaints. *Id.* For a more complete statement of plaintiff's claims, refer to the amended complaint.

Plaintiff has amended the names of his defendants. The Clerk is directed to amend the docket to reflect that the only two named defendants are as follows: Mr. Gregory Eastwood, Director SUNY Upstate Medical University Hospital and the Estate of Dr. John Halverson, M.D.

This action was assigned to division "6" which is reserved for non-prisoner cases. Because this action relates to medical care received by an inmate during his incarceration, the Clerk is directed to reassign this action to division "9" which is reserved for prisoner cases.

II. In forma pauperis application.

Plaintiff has now submitted a signed inmate authorization form as required by the May Order. See Dkt. No. 5. The Court grants plaintiff's *in forma pauperis* application.

WHEREFORE, it is hereby

ORDERED, that the Clerk is directed to amend the docket to reflect that the only two named defendants are as follows: Mr. Gregory Eastwood, Director SUNY Upstate Medical University Hospital and the Estate of Dr. John Halverson, M.D., and it is further

ORDERED, that the Clerk reassign this action from division "6" to a division "9," and it is further

ORDERED, that plaintiff's *in forma pauperis* application (Dkt. No. 2) is granted.¹

The Clerk shall issue summonses and forward them, along with a copy of the amended complaint, to the United States Marshal for service upon the defendants, and it is further

ORDERED, that the Clerk provide the Superintendent of the facility, designated by plaintiff as his current location, with a copy of plaintiff's authorization form, and notify the official that this action has been filed and that plaintiff is required to pay the entire statutory filing fee of \$250.00 pursuant to 28 U.S.C. § 1915, and it is further

ORDERED, that the Clerk provide a copy of plaintiff's authorization form to the Financial Deputy of the Clerk's Office, and it is further

ORDERED, that a response to plaintiff's amended complaint be filed by the defendants or their counsel as provided for in the Federal Rules of Civil Procedure after service of process on the defendants, and it is further

ORDERED, that all pleadings, motions and other documents relating to this action shall be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367.

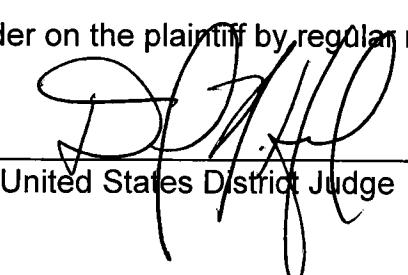
Any paper sent by a party to the Court or the Clerk shall be accompanied by a certificate setting forth the date a true and correct copy of it was mailed to all opposing parties or their counsel. Any letter or other document received by the Clerk or the Court which does not include a proper certificate of service is to be returned without processing. Plaintiff shall also comply with any requests by the Clerk's

¹ The plaintiff should note that even though his request has been granted, plaintiff is still required to pay other fees that he may incur in the future including copying and/or witness fees.

Office for any documents that are necessary to maintain this action. Motions must comply with Local Rule 7.1 of the Northern District of New York and are to be made returnable before the assigned Magistrate Judge on any business day with proper allowance for notice as required by the Rules. **Plaintiff is also required to promptly notify the Clerk's Office of any change in his address; his failure to do this will result in the dismissal of this action.** All motions will be decided on submitted papers, without oral argument, unless otherwise ordered by this Court, and it is further

ORDERED, that the Clerk serve a copy of this Order on the plaintiff by regular mail.

IT IS SO ORDERED.


United States District Judge

Dated: July 6, 2005
Utica, New York.